

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Dulyn Group, Inc.,

Appellant,

ORDER

- against -

No. 23-CV-6296 (CS)

Mester Funding Group I, LLC, *et al.*,

Appellees.

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Seibel, J.

Federal Rule of Bankruptcy Procedure 8009(a) provides that an

appellant must file with the bankruptcy clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented . . . within 14 days after: (i) the appellant's notice of appeal as of right becomes effective under Rule 8002; or (ii) an order granting leave to appeal is entered.

Fed. R. Bankr. P. 8009(a). Appellant's notice of appeal was docketed by the Bankruptcy Court on July 14, 2023, (*see* Bankr. S.D.N.Y. Case No. 23-22002, ECF No. 26), which meant that Appellant's designation of the items to be included in the record on appeal and statement of the issues to be presented should have been filed with the bankruptcy clerk and served on Appellees by July 28, 2023. Appellant, however, did not file its designation and statement by that date.

Accordingly, Appellant is ordered to file and serve its designation and statement as required by Rule 8009(a), or withdraw this appeal, by September 25, 2023. If Appellant fails to do either, the instant appeal may be dismissed for failure to prosecute. *See O'Grady v. Motors Liquidation Co. Avoidance Action Tr.*, No. 19-CV-6668, 2020 WL 2765695, at *2 (S.D.N.Y. May 28, 2020) ("A district court has the power to dismiss a bankruptcy appeal for failure to prosecute *sua sponte*.") (collecting cases).

SO ORDERED.

Dated: September 11, 2023
White Plains, New York

A handwritten signature in black ink that reads "Cathy Seibel". The signature is written in a cursive, flowing style.

CATHY SEIBEL, U.S.D.J.